UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,185	05/20/2004	Marcel Joseph Louis Mampaey	Q81536	7244

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EXAMINER
SALL, EL HADJI MALICK

ART UNIT	PAPER NUMBER
2457	

MAIL DATE	DELIVERY MODE
10/26/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action **_Before the Filing of an Appeal Brief_**	10/849,185	MAMPAEY ET AL.
	Examiner	**Art Unit**	
	EL HADJI M. SALL	2457	

--_The MAILING DATE of this communication appears on the cover sheet with the correspondence address_ --

THE REPLY FILED <u>08 October 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: <u>none</u>.
   Claim(s) objected to: <u>none</u>.
   Claim(s) rejected: <u>1-10</u>.
   Claim(s) withdrawn from consideration: <u>none</u>.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information _Disclosure Statement_(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Salad Abdullahi/
Primary Examiner, Art Unit 2457

Continuation of 11. does NOT place the application in condition for allowance because:

(A)   Applicant argues that Ejzak does not teach or suggest that "after analyzing of an incoming IP multimedia call, the S-CSCF presents the call to the called party together with a set of service applications for answering the incoming call, said set of service applications being determined in said analysis", as recited in claim 1 and analogously recited in claims 3, 5, and 9.
In regards to point (B), examiner respectfully disagrees.
In column 4, line 46 to column 5, line 4, Ejzak discloses using the interface, MGCF 145 (i.e. "called party") accepts commands from CSCF 143 to perform functions related to the control of a call. Examiner construes that such "functions related to the control of a call" includes "analyzing an incoming call, and presents the call to the called party (i.e. MCCF 145) together with a set of service applications for answering the incoming call".

(B)   Applicant argued that although the Examiner cited column 13, lines 11-18 of Ejzak as allegedly teaching this aspect of the claims.
In regards to point (B), examiner respectfully disagrees.
       Such column and lines were not used by Examiner to address to reject the claims.

(C)   Applicant argues that Landherr does not teach or suggest that a "call session control Network element (CSCF) upon intercepting said incoming IP multimedia call activating a dedicated primary application server", as recited in the claims.
In regards to point (C), examiner respectfully disagrees.
       Examiner did not address the whole argued feature using Landherr alone. Such limitation was addressed using Landherr and Hsu in combination with Ejzak. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ejzak and Hsu in view of Landherr to provide upon intercepting said incoming IP multimedia call activating a dedicated primary application server (AS.sub.PRIM) in order to support the requesting server when the load exceed the threshold (abstract).

(D)   Applicant argues that the Examiner also acknowledges that Ejzak does not teach or suggest "said call session control Network element (CSCF) receiving a selection of at least one service application from said set of service applications forwarded by said called party terminal", as recited in the claims. The Examiner thus cites paragraph [0041] of Hsu as allegedly teaching this aspect of the claims. Applicant respectfully disagrees with the Examiner and further submits that Hsu has no relevance to the claimed invention
In regards to point (D), examiner respectfully disagrees.
In paragraph [0041], Hsu discloses each packet is typically divided into a plurality of fields, whose function is defined by a predetermined protocol. The rules can compare, for example, one or more fields in an incoming packet with predetermined values and select that packet for logging if the appropriate values are present. The selection of that packet is construed by Examiner as "a selection of at least one application from said set of service application". Furthermore, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, on would be motivated to do so in order to analyze use of services based on various aspects of design of a service such as technical properties of a service, content of a service, service quality, availability and usability.

(E)   Applicant respectfully submits that the combination of the three references - Ejzak, Hsu, and Landherr simply cannot produce the claimed invention. Further, each element of the claim cannot be examined in a vacuum. Furthermore, Applicant argues that Examiner has not provided any supportable objective reasoning why one of ordinary skill in the art would have been motivated to modify Ejzak in view of Landherr.
In regards to point (E), examiner respectfully disagrees.
       Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, on would be motivated to do so in order to analyze use of services based on various aspects of design of a service such as technical properties of a service, content of a service, service quality, availability and usability. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ejzak and Hsu in view of Landherr to provide upon intercepting said incoming IP multimedia call activating a dedicated primary application server (AS.sub.PRIM) in order to support the requesting server when the load exceed the threshold (abstract).

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